

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Glenn Brown	Team: Team # 1	CCRB Case #: 201401259	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 02/02/2014 10:31 AM	Location of Incident: In the vicinity of 1135 East 225th Street; 47th Precinct stationhouse	Precinct: 47	18 Mo. SOL 8/2/2015	EO SOL 8/2/2015	
Date/Time CV Reported Fri, 02/07/2014 12:30 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 02/07/2014 12:30 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Alexander Montanez	03973	927222	047 PCT
2. POM Francis Twum	08518	939617	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Louis Padilla	26791	919527	047 PCT
2. POF Tywana Turnage	08504	939616	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Alexander Montanez	Abuse: In the vicinity of 1135 East 225th Street in the Bronx, PO Alexander Montanez threatened § 87(2)(b) with the use of force.	
B.POM Alexander Montanez	Force: In the vicinity of 1135 East 225th Street in the Bronx, PO Alexander Montanez used physical force against § 87(2)(b)	
C.POM Francis Twum	Abuse: At the 47th Precinct station house, PO Francis Twum strip-searched § 87(2)(b)	

Case Summary

On February 2, 2014, at approximately 10:31 am, § 87(2)(b) and his friend § 87(2)(b) stole an electric razor from a Walgreens Pharmacy located at 3575 Boston Road in the Bronx. Soon thereafter, PO Alexander Montanez and PO Louis Padilla of the 47th Precinct responded to the location and started to canvas the area. PO Montanez and PO Padilla observed § 87(2)(b) and § 87(2)(b) and engaged them in a foot pursuit. § 87(2)(b) and § 87(2)(b) split up and as § 87(2)(b) ran, PO Montanez got out of the police vehicle and allegedly told § 87(2)(b) that if he moved he would shoot him (**Allegation A**). PO Montanez chased § 87(2)(b) into a large open football field in the vicinity of 1135 East 225th Street, at which time he apprehended § 87(2)(b) and lacerated § 87(2)(b)'s lower lip (**Allegation B**). PO Francis Twum transported § 87(2)(b) back to the 47th Precinct stationhouse and allegedly strip-searched § 87(2)(b) in the holding cell area before lodging him (**Allegation C**). § 87(2)(b) was arrested and charged with § 87(2)(b) as a result of this incident (complaint encl. B1-2, CCRB statement encl. B3-B8). § 87(2)(b)'s apprehension by PO Montanez was captured on NYCHA surveillance footage (encl. B10, viewing instructions encl. F3).

Mediation, Civil and Criminal Histories

This complaint was not eligible for mediation. On December 15, 2014, a Notice of Claim inquiry was filed with the Comptroller's Office and this request is still pending. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. A4).
- PO Montanez has been a member of the NYPD for 14 years, has had 2 previous CCRB allegations involving one case with no substantiated allegations. § 87(2)(g) (encl. A1).
- PO Twum has been a member of the NYPD for 9 years, has had 18 previous CCRB allegations involving nine cases with no substantiated allegations. § 87(2)(g) (encl. A2-3).

Finding and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) could not describe the officer who exited the marked police vehicle and said that he was going to shoot him. PO Padilla and PO Montanez were consistent in stating that it was their vehicle that first came upon § 87(2)(b) and § 87(2)(b) and that PO Montanez got out of the vehicle soon after § 87(2)(b) and § 87(2)(b) started to flee. Furthermore, PO Montanez stated that early on in the pursuit § 87(2)(b) asked him if he was going to shoot him. Because PO Montanez was in the first vehicle to come upon § 87(2)(b) and § 87(2)(b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

PO Montanez acknowledged interacting with § 87(2)(b) on the football field and PO Twum acknowledged lodging § 87(2)(b) in the holding cells. § 87(2)(g)

§ 87(2)(b).

Allegation A – Abuse of Authority: In the vicinity of 1135 East 225th Street in the Bronx, PO Alexander Montanez threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that after he saw that he was being pursued by a marked police vehicle, he ran around a small triangular fence three times and then PO Montanez got out of the vehicle and allegedly said that he would shoot him if he moved.

PO Montanez stated that after pursuing § 87(2)(b) on foot for a period of time, § 87(2)(b) came to a short fence and PO Montanez instructed § 87(2)(b) to get on the ground. In response, § 87(2)(b) asked, “Or what – you’re gonna shoot me?” and PO Montanez replied, “No. I’m not going to shoot you. I want to talk to you first.” § 87(2)(b) jumped over the fence and continued running. PO Montanez denied threatening to shoot § 87(2)(b) (encl. C1-5). PO Padilla also denied threatening to shoot § 87(2)(b) or that PO Montanez made that threat (encl. C36-38).

§ 87(2)(g)

Allegation B – Force: In the vicinity of 1135 East 225th Street in the Bronx, PO Alexander Montanez used physical force against § 87(2)(b)

PO Montanez does not dispute that he punched § 87(2)(b) in the face, though it is disputed what § 87(2)(b) was doing at the time that PO Montanez punched him.

§ 87(2)(b) stated that after he entered the football field, he recognized that he was fenced in and he came to a stop. Once he stopped, PO Twum and PO Turnage grabbed § 87(2)(b) by each arm and then PO Montanez punched him one time in the left side of his mouth. § 87(2)(b) stated that he did not raise his arms up into a fighting stance before this and they were down at his sides when he was punched. § 87(2)(b)'s hospital records (encl. F1) confirm that he had a facial laceration and a cracked tooth following his arrest.

PO Montanez initially stated that when § 87(2)(b) came to a stop, he turned around and raised both of his fists in a “fighting stance.” In response, PO Montanez grabbed § 87(2)(b)'s jacket and attempted to pull him to the ground, but then § 87(2)(b) punched PO Montanez once in the right ear. Subsequently, PO Montanez punched § 87(2)(b) once in the face and § 87(2)(b) fell to the ground. After PO Montanez watched the NYCHA and Argus videos detailing § 87(2)(b)'s apprehension, he revised his statement to say that § 87(2)(b) had not punched him, but had raised his fists in front of his body, which made PO Montanez think that § 87(2)(b) was going to punch him, and this action is what prompted him to punch § 87(2)(b) (encl. C1-5). An AIDED report was filled out for PO Montanez noting that he cut his right hand after getting into a physical altercation with a perpetrator (encl. C20, C31-35).

PO Turnage stated that § 87(2)(b) was “flailing” his arms by pushing them towards PO Montanez and then pulling them away from him when she ran onto the scene. She denied seeing PO Montanez punch § 87(2)(b) (encl. C6-11). PO Twum stated that PO Montanez grabbed § 87(2)(b)'s hands and § 87(2)(b) kept attempting to pull them away from PO Montanez when he ran onto the field. PO Twum denied that PO Montanez ever struck § 87(2)(b) (encl. C12-17).

The NYCHA and Argus footage detailing § 87(2)(b)'s apprehension is insufficiently clear to determine exactly what § 87(2)(b) was doing with his arms when PO Montanez struck him in the face. The footage shows § 87(2)(b) coming to a stop on the football field, turning his body so that his shoulders are squared with PO Montanez's shoulders, and then the two men standing there for approximately six seconds. After six seconds and before PO Turnage or PO Twum reached the two of them, § 87(2)(b) jumped back slightly and his head fell to his right side. Then, PO Twum and PO Turnage reached § 87(2)(b) brought him to the ground and placed him into handcuffs (encl. B10).

Patrol Guide Procedure 203-11 permits officers to use the minimum force necessary when arresting a perpetrator (encl. i-ii).

§ 87(2)(g)

Allegation C – Abuse of Authority: At the 47th Precinct station house, PO Francis Twum strip-searched § 87(2)(b)

§ 87(2)(b) alleged that once he was brought into the holding cell area at the stationhouse, PO Twum instructed him to remove his boots, shirt, and pants. § 87(2)(b) complied and ended up standing in the middle of the holding cell area in nothing but his boxer briefs while three or four other prisoners watched. No other officers were present at the time of § 87(2)(b)'s undressing.

§ 87(2)(b) was unavailable (encl. F2), but the prisoner holding pen roster revealed that there was one other prisoner in the holding cells at the time that § 87(2)(b) was lodged: § 87(2)(b) (encl. D9-13). § 87(2)(b) provided a brief phone statement (encl. B9) and stated that § 87(2)(b) was already lodged in the holding cell at the time that § 87(2)(b) was lodged. Still, § 87(2)(b) never observed anyone in the holding cell area who was not wearing his shirt or pants.

PO Twum denied ever instructing § 87(2)(b) to remove either his shirt or pants while he was in the holding cell area and at no time did he see § 87(2)(b) without either of these articles of clothing.

Patrol Guide Procedure 208-05 (encl. iii-v) defines a strip-search as any search that involves the removal of a prisoner's clothing. § 87(2)(g)

Team: ____1____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date